



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

Matthew Zuker, Chairman
James S. DeCelle, Vice Chairman
Craig W. Hiltz, Clerk
Mary Jane Coffey, Member
Susanne Murphy, Member
Timothy C. Foley, Associate Member

August 25, 2016

DECISION – BOARD OF APPEALS CASE NO. 11-16

APPLICANT:
Jonathan Hall

LOCATION OF PROPERTY INVOLVED:

120 Production Road and shown on the Assessors' Map as Lot 46-20. Zoning District Industrial.

APPLICATION FOR:

A **Special Permit** under Section 5-B.1.e of the Zoning Bylaw to allow the sale of antique cars via the internet. Cars will be stored on site.

On August 17, 2016, a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a decision as to the granting of a **Special Permit** to Jonathan Hall, 120 Production Road.

The following members were present and voting:

Matthew Zuker, Chairman
Craig Hiltz, Clerk
Mary Jane Coffey, Member
Susanne Murphy, Member
Timothy Foley, Associate Member

The following member was not present:

James DeCelle, Vice Chairman

A motion was made by Craig Hiltz, seconded by Susanne Murphy to close the public hearing. The vote was **5-0-0 in favor** (Zuker, Hiltz, Coffey, Murphy, and Foley voting).

A motion was made by Susanne Murphy, seconded by Craig Hiltz on behalf of the applicant to grant a **Special Permit** under Section 5-B.1.e of the Zoning Bylaw to allow the sale of antique cars via the internet. Cars will be stored on site.

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The vote was **5-0-0** in favor (Zuker, Hiltz, Coffey, Murphy and Foley voting); therefore, the application for a **Special Permit** is hereby **granted, subject to the following conditions:**

CONDITIONS:

1. No more than six (6) cars will be stored inside the building and no more than eight (8) cars will be stored outside the building;
2. Storage will be on paved surfaces only;
3. All drains and pipes or any alternative solution shall be approved by Margaret Walker, Town Engineer;
4. Limited repair of the cars incidental to the automotive sale will be allowed.

REASONS FOR DECISION

It is the finding of the Board that the Applicant was able to meet the requirements of Section 5-B.1.e of the Zoning Bylaw to allow the sale of antique cars via the internet with cars to be stored on site as per the above conditions of approval. The Board finds that the request is in character with, and follows the intent of, the Walpole Zoning Bylaw for an Industrial zone. Accordingly, the Board has determined that the **Special Permit** requested is warranted.

FURTHER FINDINGS

(1) Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for the special permit:

- (a) does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested special permit;**

The Board finds that the proposed request for the sale of antique cars via the internet and storage of same on site in harmony with the purposes and intent of the By-Law. The proposed undertaking meets the criteria as stated in the Walpole Zoning By-Law and will be consistent with the character of the neighborhood which is Industrial in nature.

- (b) shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;**

The Board finds that the parking and driveway will have no adverse effect to pedestrian and vehicular movement so as to adversely affect the neighborhood. The proposed undertaking will neither impact the convenience and safety of vehicular and pedestrian traffic within the site

nor affect the current conditions on adjacent streets. The volume of traffic will not change as a result of this renovation and will not have a significant impact on Production Road. There should not be any adverse effect to adjacent roads as there are no additional new trips generated and the capacity of the road is sufficient.

- (c) shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;**

The Board finds that proposed request to allow the sale of antique cars via the internet and the storage of those cars should not be an adverse effect to the neighborhood. As such, the Board finds that there is no adverse effect to the neighborhood and that this condition is met.

- (d) shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

The Board finds that as shown on the plans submitted with the Application, the Board is satisfied that this condition is met.

- (e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;**

The Board finds that the proposed use does not cause any danger to the immediate neighborhood of the premises through fire, explosion, emissions of waste or other causes and this condition is satisfied.

- (f) shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;**

The Board finds that the proposed use is Industrial in nature. There is nothing being used, generated or otherwise that would create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood. Therefore, this condition is satisfied.

- (g) shall not adversely affect the character of the immediate neighborhood; and**

The Board finds that the immediate neighborhood is Industrial in nature and the proposed undertaking is consistent with the area and immediate neighborhood. Thus, this condition is satisfied.

- (h) shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.**

The Board finds that the purpose of the Zoning By-Law in part states, "to encourage the most appropriate use of the land". The Board is satisfied that this condition is met as this is an

Industrial zone.

CONSISTENCY

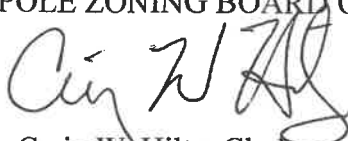
This decision is consistent with the purpose and intent of the Zoning Bylaws.

Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: "...Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."

Massachusetts General Laws c. 40A, §11 provides in pertinent part as follows: "A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."

APPEALS FROM THIS DECISION FOR A SPECIAL PERMIT, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS


Craig W. Hiltz, Clerk

CH/k:16-24

cc: Town Clerk Engineering Planning Board
 Board of Selectmen Building Inspector Conservation Commission

This decision was made on August 17, 2016 and filed with the Town Clerk on August 25, 2016,